

REMARKS

As a general review, the instant invention relates to a fabric article treating device comprising an interior housing located inside of a fabric article drying appliance and an exterior housing located outside of the fabric article drying appliance. The interior housing and the exterior housing of the fabric article treating device are in communication with one another.

35 U.S.C. § 102 Rejections

Claims 1 - 4, 6 - 13, and 14 - 22 are rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,980,583 issued to Staub et al. (hereinafter "Staub et al.") for the reasons of record stated on page 2 of the Office Action.

Applicants respectfully traverse this rejection. Staub et al. purports to relate to a method of manufacturing durable press garments by inserting garments into a tumbling apparatus in a manner to form a tunnel defined by the garments. An atomizer unit positioned on the exterior of the tumbling apparatus discharges a durable press resin through a hole in the door of the tumbling apparatus. [see Staub et al. column 2, lines 40 - 45, and column 5, lines 12 - 16].

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131 citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Staub et al. does not disclose either expressly or inherently a fabric article treating device which has an interior housing and an exterior housing wherein the interior housing of the fabric article treating device is located inside of a fabric article drying appliance. Nor does Staub et al. teach a fabric article treating device having an interior housing and an exterior housing wherein the interior housing of the fabric article treating device is located inside of a fabric article drying appliance and the exterior housing of the fabric article treating device is located outside of a fabric article drying appliance and wherein the interior housing of the fabric article treating device is in communication with the exterior housing of the fabric article treating device.

On page 2 of the Office Action, with regard to Staub et al., the Examiner asserts that the Staub et al. drying drum "is an interior housing" located inside of the Staub et al. dryer. Applicants wish to point out that the drying drum of Staub et al. would not be considered an interior housing of a fabric article treating device. Though the interior housing of the fabric article treating device of the present invention is located inside of a fabric article drying appliance (such as a tumble dryer), it is independent of/not part of the dryer drum. Hence, the drying drum of Staub et al. would not be considered an "interior housing of a fabric article treating device".

Furthermore, page 3 of the Office Action indicates that Staub et al. teaches a "wrinkle releaser". Applicants see no teaching within Staub et al. which discloses or teaches a "wrinkle releaser". Applicants respectfully request the Examiner to point to the specific disclosure in Staub et al. which discloses a wrinkle releaser. The Office Action on page 3 also indicates that the

"apparatus further has heat sensors". Applicants see no teaching within Staub et al. which discloses or teaches heat sensors. Applicants respectfully request the Examiner to point to the specific disclosure in Staub et al. which discloses heat sensors.

Hence, Staub et al. does not anticipate Claims 1 - 4, 6 - 13, and 14 - 22 of the present invention. Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

35 U.S.C. § 103 Rejections

Claims 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Staub et al. as applied to Claim 1 and further in view of U.S. Patent No. 4,891,890 issued to Church for the reasons of record stated at pages 3 of the Office Action. Claims 13 and 23 re rejected under 35 U.S.C. §103(a) as being unpatentable over Staub et al. as applied to Claim 1 and further in view of U.S. Patent No. 6,473,563 issued to Pletcher et al. (hereinafter "Pletcher et al.") for the reasons of record stated on page 4 of the Office Action. Applicants respectfully traverse these rejections.

"In order to establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (emphasis added)." M.P.E.P. §2142 citing *In re Vacek*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

"The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." M.P.E.P. §2142 citing *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

The Office Action does not meet the initial burden of showing that the prior art either expressly or impliedly suggests the claimed invention as required by M.P.E.P. §2142. With regard to the obviousness rejection of Claim 5 over Staub et al. in view of Church, the Church reference purports to relate to a sprayer device attached to the inside of a tumble dryer for spraying fluid in the tumble dryer. [See Church, column 2, lines 53 - 62]. Neither Staub et al., Church, or Staub et al. in view of Church teach or suggest a fabric article treating device having an interior housing located inside of a fabric article drying appliance and an exterior housing located outside of a fabric article drying appliance wherein the interior housing of the fabric article treating device is in communication with the exterior housing of the fabric article treating device.

Hence, as Stanb et al. in view of Church does not teach or suggest all the claim limitations nor does the combination of these references provide any teaching or suggestion to make the invention of Claim 5, the obviousness rejection of this claim cannot stand. Applicants respectfully request reconsideration and withdrawal of this rejection.

With regard to the obviousness rejection of Claims 13 and 23 over Staub et al., in view of Pletcher et al., the Pletcher et al. reference purports to relate to a method and apparatus for inducing electric charge onto home care formulations. The Office Action on page 4 states that "*Pletcher et al. teaches electrically charging a home care liquid formulation, wherein the formulation can retain an electric charge for a sufficient period for contacting a target*". The Office Action goes on to indicate that "*while Pletcher et al. does not expressly suggest charging a wrinkle releaser, it is deemed by this examiner that a wrinkle releaser falls within the category of a 'home care liquid formulation.'*" Applicants respectfully disagree with this as there is no basis in Pletcher et al. or Staub et al. for the Examiner to make such an assertion. Conclusory statements of convenient assumptions are inadequate to support a finding of motivation in an obviousness analysis which is a factual question that cannot be resolved on subjective belief and unknown authority." *In re Beasley*, 2004 U.S. App. LEXIS 25055 (BPAI unpublished opinion December 7, 2004), citing *In re Lee*, 277 F.3d 1338, 1334 (Fed. Cir. 2002).

Further, neither Pletcher et al. nor Staub et al. disclose a "wrinkle releaser". Furthermore, Pletcher et al. does not disclose either expressly or impliedly utilizing an electrically charged liquid to treat fabric. Yet further, Pletcher et al. does not disclose expressly or impliedly utilizing an electrically charged liquid to treat fabric in a clothes drying appliance. Hence, there is no motivation to combine this reference with Staub et al. as neither Staub et al. nor Pletcher et al. suggest either expressly or impliedly *inter alia* applying an electrically charged liquid onto fabric in a clothes drying appliance. It is impermissible for the Examiner to use Applicants' claimed invention to reconstruct the prior art in hindsight. MPEP §2142.

Hence, as Staub et al. in view of Pletcher et al., do not teach or suggest all the claim limitations nor does the combination of these references provide any teaching, suggestion, or motivation to make the invention of Claims 13 and 23 of Applicants' instant application, the rejection of Claims 13 and 23 cannot stand. Applicants respectfully request reconsideration and withdrawal of this rejection.

SUMMARY

This is responsive to the Office Action dated December 15, 2005. Applicants hereby petition for a one month extension of time to respond to this Action. Please charge any fees associated with this response to Deposit Account No.: 16-2480. As the rejections under 35 U.S.C. §102 and §103 have been overcome, Applicants respectfully request these rejections be withdrawn and the claims allowed.

Respectfully submitted,
FOR: HEILMAN ET AL.;

BY: 

Julia A. Glazer
Attorney for Applicants
Registration No. 41,783
(513) 627-4132

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Cincinnati, Ohio